## REMARKS

Claims 2-12, 14-21 and 23-27 are currently pending in this application. In the Office Action mailed December 31, 2003, claims 8, 18 and 19 were allowed, claims 2-3 and 6-7 were deemed allowable if rewritten in independent form, and claims 1, 4-5, 9-17 and 20-27 were rejected. Applicants respectfully request favorable consideration of the present application in light of the amendments to the claims and the following remarks.

### I. Claims:

#### A. Anticipation Rejections - Brantigan

Claims 1, 5, 11, 14, 16-17, 23-24 and 26-27 were rejected under 35 USC § 102(b) as being anticipated by US Patent No. 5,192,327 to Brantigan ("Brantigan"). Claim 1 has been cancelled from prosecution, without prejudice. Applicant respectfully traverses the rejection of claims 5, 11, 14, 16-17, 23-24 and 26-27 as follows.

In order to reject a claim for anticipation, it must be shown that each and every element of the claim can be found in a single reference. In order to avoid rejection for anticipation, an applicant need only show that the claim contains at least one element not disclosed in the cited reference.

Independent claim 5, as amended, recites an intervertebral support system comprising a center portion, a top portion, and a bottom portion dimensioned to be positioned in an intervertebral space. The center portion has top and bottom recesses facing generally cranially

and caudally when the center portion is positioned within the intervertebral space. The top portion has a bottom recess facing generally caudally which interlocks with the top recess in the center portion when the top portion is positioned on top of the center portion within the intervertebral space. The bottom portion has a top recess facing generally cranially which interlocks with the bottom recess in the center portion when the center portion is positioned on top of the bottom portion within the intervertebral space. Each of the top, center and bottom portions have side grooves extending along opposite sides thereof, the side grooves each being adapted to receive a prong of a positioning tool therein.

Brantigan discloses an intervertebral support system 10 with a center portion having a top and bottom recess facing cranially and caudally, a top portion having bottom recesses facing caudally, and a bottom portion having top recesses facing cranially wherein the top and bottom portions are interchangeable. However, Brantigan does not appear to disclose the feature of providing "top, center and bottom portions have side grooves extending along opposite sides thereof, the side grooves each being adapted to receive a prong of a positioning tool therein" as recited in Claim 5 as amended. While slots 11e provided in the Brantigan device, a close reading of the specification will reveal that such slots 11e are not for receiving a positioning tool. Rather (as set forth in Fig. 4, Col. 4 lines 50-56, and Fig. 11 Col. 6 lines 37-40) the slots 11e of Brantigan are to be packed with bone graft material. This distinction is further emphasized with reference to Fig. 13 and 14, Col. 3 lines 58-61 and Col. 4 lines 20- 23, of Brantigan, wherein it specifically discloses that the Brantigan device is inserted via an insertion device 73 which threadably engages into threaded holes 13 disposed on the ***end*** of the implant, as opposed to the side grooves of the present invention.

Applicant respectfully asserts that claim 5, as amended, includes at least one feature not disclosed by Brantigan such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Independent claim 11, as amended, recites an intervertebral support system comprising a center portion, a top portion, and a bottom portion dimensioned to be positioned in an intervertebral space. The center portion has *a generally elongate shape* with top and bottom recesses facing generally cranially and caudally when the center portion is positioned within the intervertebral space. The top portion has *a generally elongate shape* with a bottom recess facing generally caudally which interlocks with the top recess in the center portion when the top portion is positioned on top of the center portion within the intervertebral space. The bottom portion has *a generally elongate shape* with a top recess facing generally cranially which interlocks with the bottom recess in the center portion when the center portion is positioned on top of the bottom portion within the intervertebral space. The top and bottom portions are held against the center portion such that the recesses in the top and bottom portions interlock with the recesses in the center portion by pressure exerted between adjacent vertebrae.

Brantigan appears to be silent with regard to at least one element on Claim 11, as amended. In particular, it does not appear that Brantigan discloses center, top and bottom portions having a "generally elongate shape." Rather, the components of Brantigan are annular or semi-annular in shape, as opposed to the generally elongate shape as set forth in claim 11. This feature of providing the top, bottom and center portions with the generally elongate shape is

advantageous in that it provides the ability to pass these components into an intervertebral space in a minimally invasive fashion (e.g. through a surgical cannula).

Applicant respectfully asserts that claim 11, as amended, includes at least one feature not disclosed by Brantigan such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Claims 14 and 16 have been amended to depend from Claim 12. As will be shown below, Brantigan does not anticipate claim 12, much less the added features of claims 14 and 16, such that the rejection of claims 14 and 16 as being anticipated by Brantigan must be withdrawn.

Independent claim 12, as amended, recites an intervertebral support system comprising a center portion, a top portion, and a bottom portion dimensioned to be positioned in an intervertebral space. The center portion has a *generally elongate shape* with top and bottom recesses facing generally cranially and caudally when the center portion is positioned within the intervertebral space. The top portion has a *generally elongate shape* with a bottom recess facing generally caudally which interlocks with the top recess in the center portion when the top portion is positioned on top of the center portion within the intervertebral space. The bottom portion has a *generally elongate shape* with a top recess facing generally cranially which interlocks with the bottom recess in the center portion when the center portion is positioned on top of the bottom portion within the intervertebral space. Each of the top, center and bottom portions are dimensioned to be introduced into the intervertebral space through surgical cannulae having an inner diameter of at least 6 mm.

Brantigan does not appear to disclose each and every feature of claim 12, as amended. Among other voids, Brantigan does not appear to disclose the feature of providing a center portion, a top portion, and a bottom portion each "having a generally elongate shape," much less the feature of dimensioning each of the top, center and bottom portions to be introduced into the intervertebral space through surgical cannulae having an inner diameter of at least 6 mm. Instead, Brantigan discloses a plurality of components each having an annular or semi-annular shape, and appears to be directed solely to an "open" procedure wherein the device is placed directly into the target site, as opposed to the minimally invasive manner of claim 12 wherein the top, center and bottom portions are introduced into the intervertebral space through surgical cannulae.

Applicant respectfully asserts that claim 12, as amended, discloses at least one element not found in the Brantigan reference such that any assertion that Brantigan anticipates claim 12 would be inappropriate. Claims 14 and 16, being dependent upon and further limiting independent claim 12, are similarly not anticipated by Brantigan such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Independent claim 17, as amended, recites a method of supporting adjacent vertebrae by assembling an intervertebral support assembly between adjacent vertebrae. The method includes the steps of: (a) providing a bottom portion having a generally elongate shape with a top recess, a top portion having a generally elongate shapes with a bottom recess, and a center portion having a generally elongate shape with a top recess and a bottom recess; (b) advancing the center

portion into a patient's intervertebral space such that the top and bottom recesses face generally cranially and caudally within the intervertebral space; (c) advancing the top portion into the patient's intervertebral space such that the bottom recess faces generally caudally within the intervertebral space and interlocks with the top recess of the center portion; and (d) advancing the bottom portion into the patient's intervertebral space such that the top recess faces generally cranially within the intervertebral space and interlocks with the bottom recess in the center portion.

Brantigan appears to be silent with regard to at least one element found in claim 17, as amended. Among other voids, Brantigan does not appear to disclose the feature of "providing a bottom portion having a *generally elongate shape* with a top recess, a top portion having a *generally elongate shapes* with a bottom recess, and a center portion having a *generally elongate shape* with a top recess and a bottom recess." Indeed, Brantigan discloses an implant constructed of several components having an annular or semi-annular shape, as opposed to the generally elongate shape of the top, bottom and center portions of the present invention as set forth in claim 17. This feature of providing the top, bottom and center portions with the generally elongate shape is advantageous in that it provides the ability to pass these components into an intervertebral space in a minimally invasive fashion (e.g. through a surgical cannula).

Applicant respectfully asserts that claim 17, as amended, includes at least one feature not disclosed by Brantigan such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Claims 23 and 24, being dependent upon and further limiting independent claim 17, should be allowable for the reasons set forth in support of the allowability of claim 17, as well as the additional recitations they contain. An indication of allowance of claims 23 and 24 is hereby earnestly solicited.

Independent claim 26, as amended, recites an intervertebral support system, comprising a bottom portion and a top portion. The bottom portion has a generally elongate shape with a top recess facing generally cranially when the bottom portion is positioned within an intervertebral space. The top portion has a generally elongate shape with a bottom recess facing generally caudally and interlocking with the top recess of the bottom portion when the top portion is positioned on top of the bottom portion within the intervertebral space.

Brantigan appears to be silent with regard to at least one element found in claim 26, as amended. Among other voids, Brantigan does not appear to disclose the feature of "a bottom portion having a *generally elongate shape* with a top recess," nor the feature of "a top portion having a *generally elongate shapes* with a bottom recess." Rather, Brantigan discloses an implant constructed of several components having an annular or semi-annular shape, in contradistinction to the generally elongate shape of the top, bottom and center portions of the present invention as set forth in claim 26.

Applicant respectfully asserts that claim 26, as amended, includes at least one feature not disclosed by Brantigan such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Independent claim 27, as amended, recites a method of supporting adjacent vertebrae by assembling an intervertebral support assembly between adjacent vertebrae. The method includes the steps of: (a) providing a bottom portion having a generally elongate shape with a top recess, and a top portion having a generally elongate shape with a bottom recess; (b) advancing the bottom portion into a patient's intervertebral space such that the top recess faces generally cranially; and (c) advancing the top portion into the patient's intervertebral space such that the bottom recess faces generally caudally and interlocks with the top recess on the bottom portion.

Brantigan appears to be silent with regard to at least one element found in claim 27, as amended. Among other voids, Brantigan does not appear to disclose the feature of "providing a bottom portion having a *generally elongate shape* with a top recess, and a top portion having a *generally elongate shapes* with a bottom recess." As discussed above, Brantigan discloses an implant constructed of several components having an annular or semi-annular shape, as opposed to the generally elongate shape of the top, bottom and center portions of the present invention as set forth in claim 27.

Applicant respectfully asserts that claim 27, as amended, includes at least one feature not disclosed by Brantigan such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

**B. Anticipation Rejections – Cohen**

Claims 1, 4, 9-11, 17 and 24-27 were rejected under 35 USC § 102(e) as being anticipated by US Patent No. 6,1454,806 to Cohen et al. ("Cohen"). Claim 1 was cancelled from prosecution, without prejudice. Applicant respectfully traverses the rejection of claims 4, 9-11, 17 and 24-27 as follows.

Independent claim 4, as amended, recites an intervertebral support system comprising a center portion, a top portion and a bottom portion dimensioned to be positioned in an intervertebral space. The center portion has top and bottom recesses facing generally cranially and caudally when the center portion is positioned within the intervertebral space, wherein one end of the center portion is tapered downwardly from a top surface and upwardly from a bottom surface. The top portion has a bottom recess facing generally caudally which interlocks with the top recess in the center portion when the top portion is positioned on top of the center portion within the intervertebral space. The bottom portion has a top recess facing generally cranially which interlocks with the bottom recess in the center portion when the center portion is positioned on top of the bottom portion within the intervertebral space.

Cohen does not appear to disclose each and every feature of independent claim 4, as amended. Cohen discloses an intervertebral support system 1B having a center portion 44 having top and bottom recesses facing cranially and caudally, a top portion 2B having recesses facing caudally, and a bottom portion 3B having recesses facing cranially (Fig. 6 Col. 1 lines 4-8, Col. 8 lines 62-67, and Col. 9 lines 1-9). However, nowhere in Cohen is there a disclosed

tapered element capable of facilitating the insertion of the implant into the disc intervertebral space.

Applicant respectfully asserts that claim 4, as amended, includes at least one feature not disclosed by Cohen such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Independent claim 9, as amended, recites an intervertebral support system comprising a center portion, a top portion, and a bottom portion dimensioned to be positioned in an intervertebral space. The center portion has top and bottom recesses facing generally cranially and caudally when the center portion is positioned within the intervertebral space; The top portion has a tapered end and a bottom recess facing generally caudally which interlocks with the top recess in the center portion when the top portion is positioned on top of the center portion within the intervertebral space. The bottom portion has a tapered end and a top recess facing generally cranially which interlocks with the bottom recess in the center portion when the center portion is positioned on top of the bottom portion within the intervertebral space. The top and bottom recesses in the center portion each comprise ramp portions which are dimensioned to engage the respective tapered ends of the top and bottom portions such that the center and top portions can be respectively slid over the bottom and center portions with the recesses in the top and bottom portions interlocking with the respective recesses in the center portion.

Cohen does not appear to disclose each and every feature of independent claim 9, as amended. More specifically, Cohen does not disclose the claim 9 feature wherein "the top and

bottom recesses in the center portion each comprise ramp portions which are dimensioned to engage the respective tapered ends of the top and bottom portions such that the center and top portions can be respectively slid over the bottom and center portions with the recesses in the top and bottom portions interlocking with the respective recesses in the center portion."

Applicant respectfully asserts that claim 9, as amended, includes at least one feature not disclosed by Cohen such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Claim 10, being dependent upon and further limiting independent claim 9, should be allowable for the reasons set forth in support of the allowability of claim 9, as well as the additional recitations it contains. An indication of allowance of claim 10 is hereby earnestly solicited.

Independent claim 11, as amended, recites an intervertebral support system comprising a center portion, a top portion, and a bottom portion dimensioned to be positioned in an intervertebral space. The center portion has a generally elongate shape with top and bottom recesses facing generally cranially and caudally when the center portion is positioned within the intervertebral space. The top portion has a generally elongate shape with a bottom recess facing generally caudally which interlocks with the top recess in the center portion when the top portion is positioned on top of the center portion within the intervertebral space. The bottom portion has a generally elongate shape with a top recess facing generally cranially which interlocks with the bottom recess in the center portion when the center portion is positioned on top of the bottom

portion within the intervertebral space. The top and bottom portions are held against the center portion such that the recesses in the top and bottom portions interlock with the recesses in the center portion by pressure exerted between adjacent vertebrae.

Cohen appears to be silent with regard to at least one element found in claim 11, as amended. Among other voids, Cohen does not appear to disclose the feature of a center portion, a top portion, and a bottom portion each having "*a generally elongate shape*." Rather, Cohen discloses an implant constructed of several components having an annular shape, as opposed to the generally elongate shape of the top, bottom and center portions of the present invention as set forth in claim 11.

Applicant respectfully asserts that claim 11, as amended, includes at least one feature not disclosed by Cohen such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Independent claim 17, as amended, recites a method of supporting adjacent vertebrae by assembling an intervertebral support assembly between adjacent vertebrae. The method includes the steps of: (a) providing a bottom portion having a generally elongate shape with a top recess, a top portion having a generally elongate shapes with a bottom recess, and a center portion having a generally elongate shape with a top recess and a bottom recess; (b) advancing the center portion into a patient's intervertebral space such that the top and bottom recesses face generally cranially and caudally within the intervertebral space; (c) advancing the top portion into the patient's intervertebral space such that the bottom recess faces generally caudally within the

intervertebral space and interlocks with the top recess of the center portion; and (d) advancing the bottom portion into the patient's intervertebral space such that the top recess faces generally cranially within the intervertebral space and interlocks with the bottom recess in the center portion.

Cohen appears to be silent with regard to at least one element found in claim 17, as amended. Among other voids, Cohen does not appear to disclose the feature of "providing a bottom portion having a *generally elongate shape* with a top recess, a top portion having a *generally elongate shapes* with a bottom recess, and a center portion having a *generally elongate shape* with a top recess and a bottom recess." Indeed, as described above, Cohen discloses an implant constructed of several components having an annular shape, as opposed to the generally elongate shape of the top, bottom and center portions of the present invention as set forth in claim 17. This feature of providing the top, bottom and center portions with the generally elongate shape is advantageous in that it provides the ability to pass these components into an intervertebral space in a minimally invasive fashion (e.g. through a surgical cannula).

Applicant respectfully asserts that claim 17, as amended, includes at least one feature not disclosed by Cohen such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Claims 24 and 25, being dependent upon and further limiting independent claim 17, should be allowable for the reasons set forth in support of the allowability of claim 17, as well as

the additional recitations they contain. An indication of allowance of claims 24 and 25 is hereby earnestly solicited.

Independent claim 26, as amended, recites an intervertebral support system, comprising a bottom portion and a top portion. The bottom portion has a generally elongate shape with a top recess facing generally cranially when the bottom portion is positioned within an intervertebral space. The top portion has a generally elongate shape with a bottom recess facing generally caudally and interlocking with the top recess of the bottom portion when the top portion is positioned on top of the bottom portion within the intervertebral space.

Cohen appears to be silent with regard to at least one element found in claim 26, as amended. Among other voids, Cohen does not appear to disclose the feature of "a bottom portion having a *generally elongate shape* with a top recess," nor the feature of "a top portion having a *generally elongate shapes* with a bottom recess." Rather, Cohen discloses an implant constructed of several components having an annular shape, in contradistinction to the generally elongate shape of the top, bottom and center portions of the present invention as set forth in claim 26.

Applicant respectfully asserts that claim 26, as amended, includes at least one feature not disclosed by Cohen such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Independent claim 27, as amended, recites a method of supporting adjacent vertebrae by assembling an intervertebral support assembly between adjacent vertebrae. The method includes the steps of: (a) providing a bottom portion having a generally elongate shape with a top recess, and a top portion having a generally elongate shape with a bottom recess; (b) advancing the bottom portion into a patient's intervertebral space such that the top recess faces generally cranially; and (c) advancing the top portion into the patient's intervertebral space such that the bottom recess faces generally caudally and interlocks with the top recess on the bottom portion.

Cohen appears to be silent with regard to at least one element found in claim 27, as amended. Among other voids, Cohen does not appear to disclose the feature of "providing a bottom portion having a *generally elongate shape* with a top recess, and a top portion having a *generally elongate shapes* with a bottom recess." As discussed above, Cohen discloses an implant constructed of several components having an annular shape, as opposed to the generally elongate shape of the top, bottom and center portions of the present invention as set forth in claim 27.

Applicant respectfully asserts that claim 27, as amended, includes at least one feature not disclosed by Cohen such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

**C. Obviousness Rejections - Cohen in view of Nicholson**

Claim 15 was rejected as 35 USC §103(a) obvious over Cohen in view of U.S. Patent No. 6,679,887 issued to Nicholson ("Nicholson"). Applicant respectfully traverses this rejection as follows.

Claim 15 has been amended to depend from Claim 12. As will be shown below, neither Cohen nor Nicholson contain the requisite teaching or motivation which would have led one of ordinary skill in the art to arrive at the present invention as set forth in claim 12, much less the further limitation of claim 15.

Independent claim 12, as amended, recites an intervertebral support system comprising a center portion, a top portion, and a bottom portion dimensioned to be positioned in an intervertebral space. The center portion has a generally elongate shape with top and bottom recesses facing generally cranially and caudally when the center portion is positioned within the intervertebral space. The top portion has a generally elongate shape with a bottom recess facing generally caudally which interlocks with the top recess in the center portion when the top portion is positioned on top of the center portion within the intervertebral space. The bottom portion has a generally elongate shape with a top recess facing generally cranially which interlocks with the bottom recess in the center portion when the center portion is positioned on top of the bottom portion within the intervertebral space. Each of the top, center and bottom portions are dimensioned to be introduced into the intervertebral space through surgical cannulae having an inner diameter of at least 6 mm.

Neither Cohen nor Nicholson teach or suggest the feature of providing a center portion, a top portion, and a bottom portion each having a "generally elongate shape," much less the feature of dimensioning each of these portions to be introduced into the intervertebral space through surgical cannulae having an inner diameter of at least 6 mm. Given these voids, there is nothing in Cohen and/or Nicholson that would have led someone of ordinary skill in the art to the present invention as set forth in claim 12, much less the further limitation of claim 15.

Accordingly, Applicant respectfully asserts that claim 15 is non-obvious over Cohen in view of Nicholson such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

**D. Obviousness Rejection - Cohen**

Claims 12-13 and 16 were rejected under 35 USC §103(a) as being obvious over Cohen. Claim 13 has been cancelled from prosecution, without prejudice. Applicant respectfully traverses the rejection of claims 12 and 16 as follows.

Independent claim 12, as amended, recites an intervertebral support system comprising a center portion, a top portion, and a bottom portion dimensioned to be positioned in an intervertebral space. The center portion has a generally elongate shape with top and bottom recesses facing generally cranially and caudally when the center portion is positioned within the intervertebral space. The top portion has a generally elongate shape with a bottom recess facing generally caudally which interlocks with the top recess in the center portion when the top portion is positioned on top of the center portion within the intervertebral space. The bottom portion has

a generally elongate shape with a top recess facing generally cranially which interlocks with the bottom recess in the center portion when the center portion is positioned on top of the bottom portion within the intervertebral space. Each of the top, center and bottom portions are dimensioned to be introduced into the intervertebral space through surgical cannulae having an inner diameter of at least 6 mm.

As noted above, Cohen does not teach or suggest the feature of providing a center portion, a top portion, and a bottom portion each having a "generally elongate shape," much less the feature of dimensioning each of these portions to be introduced into the intervertebral space through surgical cannulae having an inner diameter of at least 6 mm. Given these voids, there is nothing in Cohen that would have led someone of ordinary skill in the art to the present invention as set forth in claim 12.

Applicant respectfully asserts that claim 12 is non-obvious over Cohen such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

Claim 16, being dependent upon and further limiting independent claim 12, should be allowable for the reasons set forth in support of the allowability of claim 12, as well as the additional recitations it contains. An indication of allowance of claim 16 is hereby earnestly solicited.

**E. Obviousness Rejections – Cohen in view of Yoakum**

Claims 20-22 were rejected under §103(a) as obvious over Cohen in view of U.S. Patent No. 5,484,403 Yoakum ("Yoakum"). Claim 22 has been cancelled from prosecution, without prejudice. Applicant respectfully traverses the rejection of claims 20 and 21 as follows.

Claims 20 and 21 depend from independent claim 17. As will be shown below, neither Cohen nor Yoakum contain the requisite teaching or motivation which would have led one of ordinary skill in the art to arrive at the present invention as set forth in claim 17, much less the further limitation of claims 20 and/or 21.

Independent claim 17, as amended, recites a method of supporting adjacent vertebrae by assembling an intervertebral support assembly between adjacent vertebrae. The method includes the steps of: (a) providing a bottom portion having a generally elongate shape with a top recess, a top portion having a generally elongate shapes with a bottom recess, and a center portion having a generally elongate shape with a top recess and a bottom recess; (b) advancing the center portion into a patient's intervertebral space such that the top and bottom recesses face generally cranially and caudally within the intervertebral space; (c) advancing the top portion into the patient's intervertebral space such that the bottom recess faces generally caudally within the intervertebral space and interlocks with the top recess of the center portion; and (d) advancing the bottom portion into the patient's intervertebral space such that the top recess faces generally cranially within the intervertebral space and interlocks with the bottom recess in the center portion.

Neither Cohen nor Yoakum teach or suggest the feature of providing a center portion, a top portion, and a bottom portion each having a "generally elongate shape," much less the additional features of introducing the center portion, top portion, and bottom portion into the intervertebral space as set forth in claim 17. Given these voids, there is nothing in Cohen and/or Yoakum that would have led someone of ordinary skill in the art to the present invention as set forth in claim 17, much less the further limitations of claim 20 and/or claim 21.

Accordingly, Applicant respectfully asserts that claims 20 and 21 are non-obvious over Cohen in view of Yoakum such that the rejection should be withdrawn in favor of an indication of allowance, which is hereby earnestly solicited.

## II. Allowable Subject matter

Claims 2, 3, 6, and 7 were objected to as being dependent on a rejected base claim, but deemed allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Claims 2, 3, 6, and 7 have been rewritten in independent form per the Examiner's suggestion such that they are now believed to be in proper form for allowance.

## CONCLUSION

The foregoing amendment has been submitted to place the present application in condition for allowance. Reconsideration and allowance of the claims in this application is respectfully requested. In the event that there are any questions concerning this Amendment or the application in general, the Examiner is cordially invited to telephone the undersigned attorney so that prosecution may be expedited. If the foregoing amendment requires the payment of any additional fees, the Commissioner is authorized to charge such fees to Deposit Account No. 50-2040 to NuVasive, Inc.

Respectfully submitted,
NUVASIVE, INC.

By: _____
Jonathan Spangler, Esq.
Registration No. 40,182

10065 Old Grove Road
San Diego, CA 92131
Tel.: (858) 243-0029

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